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**High-level segment: high-level policy dialogue with international financial and trade institutions**

## Statement submitted by International Presentation Association of the Sisters of the Presentation of the Blessed Virgin Mary, a non-governmental organization in consultative status with the Economic and Social Council

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 30 and 31 of Economic and Social Council resolution 1996/31.

* E/2010/100.

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## Statement

## An international insolvency framework — why it is needed and what it could look like

The international financial institutions have tried to control new borrowing with the help of the World Bank's debt sustainability framework. This approach is not likely to be overly successful. It unilaterally exerts pressure on the borrower, without providing much of an incentive for the creditor to forego an investment opportunity, simply because it would eventually endanger the borrower's long-term debt sustainability. There is an extreme danger today that, in both low- and middle-income countries, a new round of defensive lending by multilateral institutions will start a new debt cycle like the one in the 1990s. It is therefore essential that the provision of fresh funding for Southern countries, which are suffering from the crisis, must be accompanied by a new mechanism to deal in a comprehensive way (i.e., involving all creditors), quickly implementable, and in a fair way with new situations of sovereign overindebtedness.

Against this background, the Doha process confirmed the call of the Monterrey Consensus for new orderly debt workout mechanisms. Proposals discussed in Doha include the International Monetary Fund's sovereign debt restructuring mechanism and also farther-reaching proposals by academia, civil society and officials of the Southern countries. Most of these proposals come under an international insolvency framework.

A new framework for sovereign debt workouts needs to differ from existing procedures in several aspects if it is to address the changed landscape of new lending. Key principles of an orderly, effective and fair debt workout mechanism include: (a) one single "insolvency" process involving all creditors. Impartiality in decision-making is needed, rather than the present creditors' hegemony over the negotiation process; (b) an automatic stay on loan enforcement, once a case has been filed; (c) impartial assessment of a sovereign sustainable debt level and hence income exemption from debt servicing.

These principles essentially do not reflect more than the operating principles of corporate or individual insolvency laws in civilized nations around the globe.

Several practical proposals to implement these principles have been made notably:

(a) The "fair and transparent arbitration process" as an ad hoc procedure. This was developed by the Austrian economist Kunibert Raffer and heralded by a number of other civil society organizations. It adds arbitration as a decision-making technique to the fundamental principles of chapter 9 of the United States Bankruptcy Code, which deals with the insolvency of municipalities;

(b) The proposals for a standing debt court. Practical proposals for a standing court have been worked out by Latin American economists Alberto Acosta and Oscar Ugarteche and by jurists Christoph Paulus and Stephen Kargman.